

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 431 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 6-2.5-5-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Transactions
5 involving agricultural machinery, tools, and equipment are exempt
6 from the state gross retail tax if the person acquiring that property
7 acquires it for ~~his~~ **the person's** direct use in the direct production,
8 extraction, harvesting, or processing of agricultural commodities.
9 (b) Transactions involving agricultural machinery or equipment are
10 exempt from the state gross retail tax if:
11 (1) the person acquiring the property acquires it for use in
12 conjunction with the production of food and food ingredients or
13 commodities for sale;
14 (2) the person acquiring the property is occupationally engaged in
15 the production of food or commodities ~~which he~~ **that the person**
16 sells for human or animal consumption or uses for further food
17 and food ingredients or commodity production; and
18 (3) the machinery or equipment is designed for use in gathering,
19 moving, or spreading animal waste.
20 (c) **Transactions involving confined feeding equipment (as**
21 **defined in IC 6-3.1-35-1) are exempt from the state gross retail tax**
22 **if the person acquiring the property is occupationally engaged in**
23 **the production of food or commodities that the person sells for**
24 **human or animal consumption or uses for further food and food**

ingredient or commodity production.

SECTION 2. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 35. Confined Feeding Equipment Investment Tax Credit

Sec. 1. As used in this chapter, "confined feeding equipment" means equipment used for either of the following at a confined feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

- (1) The anaerobic digestion of manure.
- (2) The control of odors.

Sec. 2. As used in this chapter and unless the context clearly denotes otherwise, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. As used in this chapter and unless the context clearly denotes otherwise, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; and
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "qualified investment" means a taxpayer's expenditures for confined feeding equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means a person, a corporation, a partnership, or another entity that makes a qualified investment.

Sec. 8. (a) A taxpayer that:

- (1) is allowed a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer makes a qualified investment.

(b) A tax credit under this chapter must be applied against the

taxpayer's state tax liability in the following order:

- (1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
- (2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).
- (3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).

Sec. 9. Subject to section 10 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment is equal to fifty percent (50%) of the amount of the taxpayer's qualified investment.

Sec. 10. (a) A credit under section 9 of this chapter must be taken in four (4) annual installments, beginning with the year in which the taxpayer places into service the taxpayer's confined feeding equipment.

(b) The amount of an annual installment of the credit under this chapter is equal to the credit amount determined under section 9 of this chapter, divided by four (4).

Sec. 11. (a) A person that proposes to make a qualified investment may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

(b) A person that files an application under subsection (a) for a tax credit under this chapter for confined feeding equipment must file with the application proof of certification by the department of environmental management that the equipment for which the person seeks a tax credit is confined feeding equipment. The department of environmental management, upon application by a person, shall determine whether equipment qualifies as confined feeding equipment. If the department determines that the equipment qualifies as confined feeding equipment, the department shall certify the equipment and provide proof of the certification to the person. The department of environmental management shall prescribe the form and manner of the certification process required by this subsection.

Sec. 12. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the taxpayer's proposed investment satisfies the requirements of this chapter.

Sec. 13. (a) The corporation shall enter into an agreement with an applicant that is granted a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the qualified investment that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) A requirement that the taxpayer shall maintain operations

1 at the site of the qualified investment for at least ten (10)
2 years.

3 (b) A taxpayer must comply with the terms of the agreement
4 described in subsection (a) to receive an annual installment of the
5 tax credit under this chapter. The corporation shall annually
6 determine whether the taxpayer is in compliance with the
7 agreement. If the corporation determines that the taxpayer is in
8 compliance, the corporation shall issue a certificate of compliance
9 to the taxpayer.

10 Sec. 14. If the credit allowed by this chapter is available to a
11 member of an affiliated group of corporations filing a consolidated
12 return under IC 6-3-4-14, the credit shall be applied against the
13 state tax liability of the affiliated group.

14 Sec. 15. If a pass through entity does not have state income tax
15 liability against which the tax credit under this chapter may be
16 applied, a shareholder, member, or partner of the pass through
17 entity is entitled to a tax credit equal to:

18 (1) the tax credit determined for the pass through entity under
19 this chapter for the taxable year; multiplied by

20 (2) the percentage of the pass through entity's distributive
21 income to which the shareholder, member, or partner is
22 entitled.

23 Sec. 16. To receive the credit under this chapter, a taxpayer
24 must claim the credit on the taxpayer's annual state tax return or
25 returns in the manner prescribed by the department. The taxpayer
26 shall submit to the department a copy of the certification required
27 under section 11 of this chapter, a copy of the taxpayer's certificate
28 of compliance issued under section 13 of this chapter, and all
29 information that the department determines is necessary for the
30 calculation of the credit provided by this chapter."

31 Page 17, between lines 25 and 26, begin a new paragraph and insert:

32 "SECTION 32. [EFFECTIVE JANUARY 1, 2007
33 (RETROACTIVE)] (a) IC 6-2.5-5-2, as amended by this act, applies
34 to transactions occurring after June 30, 2007.

- 1 **(b) IC 6-3.1-35, as added by this act, applies to taxable years**
- 2 **beginning after December 31, 2006."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to ESB 431 as printed March 30, 2007.)

Representative Stutzman